

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0016-21\_

SPONSOR: Jamie Henio

**TITLE: An Action Relating To Resources And Development, Budget And Finance, And Naabik'iyáti' Committees, And Navajo Nation Council; Approving A Supplemental Appropriation From The Unreserved, Undesignated Fund Balance In The Total Amount Of Thirty-Four Million One Hundred Ninety-Three Thousand Five Hundred Fourteen Dollars (\$34,193,514) To The Navajo Nation Gaming Enterprise, Navajo Tribal Utility Authority, Navajo Nation Shopping Centers, Inc., Navajo Engineering And Construction Authority, Navajo Nation Hospitality Enterprise, And Navajo Arts And Crafts Enterprise; Waiving 12 N.N.C. §§ 820 (E), (F), And (J) Of The Appropriations Act**

***Date posted:*** January 29, 2021 at 4:20 PM

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)

Written comments may be mailed to:

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

**Please note:** This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0016-21

**DATE:** January 29, 2021

**TITLE OF RESOLUTION:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAA'BIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; APPROVING A SUPPLEMENTAL APPROPRIATION FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE TOTAL AMOUNT OF THIRTY-FOUR MILLION ONE HUNDRED NINETY-THREE THOUSAND FIVE HUNDRED FOURTEEN DOLLARS (\$34,193,514) TO THE NAVAJO NATION GAMING ENTERPRISE, NAVAJO TRIBAL UTILITY AUTHORITY, NAVAJO NATION SHOPPING CENTERS, INC., NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY, NAVAJO NATION HOSPITALITY ENTERPRISE, AND NAVAJO ARTS AND CRAFTS ENTERPRISE; WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J) OF THE APPROPRIATIONS ACT

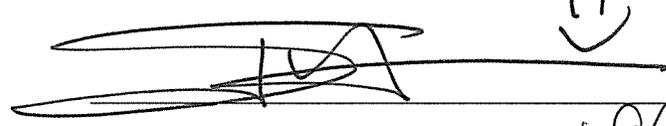
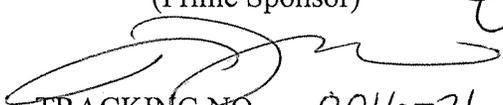
**PURPOSE:** The purpose of this resolution is to appropriate \$34,193,514 from the UUFb to give to the six Navajo Nation Enterprises named above.

5-DAY BILL HOLD PERIOD: Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 02-03-21  
Eligible for Action: 02-04-21

Resources & Development Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

  
(Prime Sponsor)   
  
TRACKING NO. 0016-21

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE,  
AND NAA'BIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL;  
APPROVING A SUPPLEMENTAL APPROPRIATION FROM THE  
UNRESERVED, UNDESIGNATED FUND BALANCE IN THE TOTAL AMOUNT  
OF THIRTY-FOUR MILLION ONE HUNDRED NINETY-THREE THOUSAND  
FIVE HUNDRED FOURTEEN DOLLARS (\$34,193,514) TO THE NAVAJO  
NATION GAMING ENTERPRISE, NAVAJO TRIBAL UTILITY AUTHORITY,  
NAVAJO NATION SHOPPING CENTERS, INC., NAVAJO ENGINEERING AND  
CONSTRUCTION AUTHORITY, NAVAJO NATION HOSPITALITY  
ENTERPRISE, AND NAVAJO ARTS AND CRAFTS ENTERPRISE; WAIVING 12  
N.N.C. §§ 820 (E), (F), AND (J) OF THE APPROPRIATIONS ACT

BE IT ENACTED:

**SECTION ONE. AUTHORITY**

- A. The Navajo Nation established the Resources and Development Committee (RDC) as a Navajo Nation Council standing committee and as such gave RDC oversight over Navajo Nation Enterprises. 2 N.N.C. §§ 164(A)(9), 500(A), and 501(B)(4)(e).
- B. The Navajo Nation established the Budget and Finance Committee (BFC) as a Navajo

1 Nation Council standing committee and as such empowered BFC to review and  
2 recommend to the Navajo Nation Council the management of all funds. 2 N.N.C. §§  
3 164(A)(9), 300(A), and 301(B)(2).

4 C. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation  
5 standing committee and as such proposed legislation that requires final action by the  
6 Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2 N.N.C. §§  
7 164(A)(9) and 700(A).

8 D. The Navajo Nation Council is the governing of body of the Navajo Nation. 2 N.N.C. §  
9 102(A).

10  
11 **SECTION TWO. TITLE 12 FINANCE ACT SUPPLEMENTAL**  
12 **APPROPRIATION REQUIREMENTS**

13 A. The Navajo Nation Council has the authority to approve supplemental appropriations.  
14 12 N.N.C. § 820(L). Pursuant to 12 N.N.C. § 820(L), “[t]he Navajo Nation Council may  
15 adopt and approve supplemental appropriations to the Annual Comprehensive Budget  
16 during the fiscal year. Supplemental appropriations of General Funds within the current  
17 fiscal year are permitted, if and when additional sources of revenues above and beyond  
18 the initial or current revenue projections are projected and which are also in excess of  
19 the reserve amount set forth at § 820(J).”

20 B. All requests for annual operating funds and supplemental funds shall be submitted to  
21 the Office of Management and Budget for budget impact analysis. 12 N.N.C. § 820(M).

22 C. When the Controller identifies additional sources of revenues above and beyond the  
23 initial or current revenue projections, supplemental appropriations may be approved by  
24 the Navajo Nation Council. 12 N.N.C. § 820(L).

25 D. Supplemental Appropriations made from non-recurring revenues shall only be made for  
26 non-recurring operations or purposes, as set forth at § 820(F). The Controller of the  
27 Navajo Nation shall be responsible for the designation of recurring and non-recurring  
28 revenues. 12 N.N.C. § 820(L).

29  
30

1 E. The Nation shall budget all recurring operating expenses, including capital maintenance,  
2 from recurring revenues. Long term debt shall not be used to finance recurring operating  
3 expenses. 12 N.N.C. §820(E).

4 F. The Navajo Nation Code provides, “[t]he Nation shall restrict non-recurring revenues  
5 to budget non-recurring expenditures. In addition, non-recurring revenues will be  
6 budgeted only after an examination by the Controller to determine whether or not the  
7 revenues are subsidizing an imbalance between recurring revenues and expenditures,  
8 and expenditures may be authorized only if a long-term (three-five year) forecast shows  
9 that the operating deficit will not continue. Otherwise, non-recurring revenues will be  
10 added to the Unreserved, Undesignated Fund Balance. This provision may be amended  
11 or waived by a two-thirds vote of the full Navajo Nation Council.” 12 N.N.C. § 820(F).

12  
13 **SECTION THREE. FINDINGS**

14 A. The novel coronavirus (or “COVID-19”), is a highly contagious and potentially fatal  
15 respiratory virus, that has severely impacted the Navajo Nation’s and the Navajo Nation  
16 Enterprises’ ability to generate revenue for the Navajo Nation and to maintain  
17 employment for Navajo People.

18 B. The U.S. Department of Health and Human Services declared a Public Health  
19 Emergency related to the COVID-19 outbreak on January 31, 2020; and the World  
20 Health Organization declared a global pandemic due to COVID-19 on March 11, 2020.

21 C. The Navajo Nation Commission on Emergency Management, with the concurrence of  
22 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on  
23 the Navajo Nation on March 11, 2020 due to COVID-19 in Resolution No. CEM 20-  
24 03-11. The Navajo Nation Department of Health subsequently issued numerous Public  
25 Health Emergency Orders. Public Health Emergency Orders 2020-001 through 2021-  
26 02 (“Public Health Emergency Orders”) are incorporated by reference into this  
27 resolution.

28 D. Navajo Nation Enterprises have worked with Navajo leaders to reduce the spread of  
29 COVID-19 by closing their operations or restricting their operations to essential  
30 employees. As a result of closures caused by the COVID-19 pandemic, the Navajo

1 Nation Enterprises are struggling to meet financial business obligations and keep  
2 employees in the work force.

3 E. The Navajo Nation Gaming Enterprise has implemented a layoff twice within  
4 approximately a 10-month period of nearly 1,000 members of the Navajo Nation  
5 currently on layoff status until further notice, or until immediate relief funding can be  
6 received by the NNGE.

7 F. COVID-19 has had a devastating economic impact upon Navajo Nation Enterprises over  
8 the past year. If the Enterprises do not receive COVID-19 relief funding, the Nation  
9 will risk the health, safety, and well-being of many Navajo People vulnerable to job loss  
10 and loss of health insurance, including the many dependent children, elders and other  
11 relatives who are also covered by the Enterprises' health benefits.

12 G. The Navajo Nation Enterprises listed below have submitted requests for supplemental  
13 funding from the Unreserved, Undesignated Fund Balance, along with budget forms,  
14 supplemental funding proposal summaries, and grant applications, for a total of  
15 \$34,193,514:

16 1. Navajo Nation Gaming Enterprise has requested funding of \$15,000,000  
17 as indicated in **Exhibit A**;

18 2. Navajo Tribal Utility Authority has requested funding of \$7,830,191 as  
19 indicated in **Exhibit B**;

20 3. Navajo Nation Shopping Centers, Inc. has requested funding of \$903,541  
21 as indicated in **Exhibit C**;

22 4. Navajo Engineering and Construction Authority has requested funding of  
23 \$6,996,576 as indicated in **Exhibit D**;

24 5. Navajo Nation Hospitality Enterprise has requested funding of  
25 \$1,463,206, as indicated in **Exhibit E**; and

26 6. Navajo Arts and Crafts Enterprise has requested funding of \$2,000,000,  
27 as indicated in **Exhibit F**.

28 H. Support for the Navajo Nation Enterprises is a priority in order for the Navajo Nation to  
29 remain competitive within their respective industries and to help recover from the  
30 devastating impacts of the COVID-19 pandemic.

- 1 I. The Controller has updated the balance of the UUFb and indicated that as of January  
2 21, 2021, the amount of \$63,795,352 is available for supplemental appropriations in  
3 Fiscal Year 2021.
- 4 J. In its approval of the Navajo Nation Budget Instruction Manual (“BIM”) for Fiscal Year  
5 2021, the Budget and Finance Committee recognized the difficulties involved in  
6 obtaining signatures on budget forms related to requests for appropriation. The Fiscal  
7 Year 2021 BIM, therefore, reflects that divisions and departments are encouraged, rather  
8 than required, to have written concurrence from the appropriate Branch Chief or  
9 Division Director. Navajo Nation BIM, Fiscal Year 2021, Section XII.B.1.a.i.
- 10 K. The Office of Management and Budget has provided a memorandum to satisfy the  
11 requirements in 12 N.N.C. § 820 (M). **Exhibit G**.
- 12 L. The Office of the Controller has been requested to provide a memorandum to satisfy the  
13 requirements in 12 N.N.C. § 820 (L). The memorandum was not ready at the time of  
14 drafting this resolution, but will be included as an exhibit when it is available.

15

16 **SECTION FOUR. WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J), TO THE EXTENT**  
17 **THESE PROVISIONS PREVENT THE UNRESERVED, UNDESIGNATED FUND**  
18 **BALANCE TO BE USED TO FUND RECURRING EXPENDITURES**

19 The Navajo Nation Council hereby waives 12 N.N.C. §§ 820(E), (F) and (J) to allow UUFb  
20 funds to be used for recurring expenditures.

21

22 **SECTION FIVE. APPROVING SUPPLEMENTAL FUNDING FROM THE**  
23 **UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF**  
24 **THIRTY-FOUR MILLION ONE HUNDRED NINETY-THREE THOUSAND FIVE**  
25 **HUNDRED FOURTEEN DOLLARS (\$34,193,514) TO THE NAVAJO NATION**  
26 **ENTERPRISES**

- 27 A. This supplemental appropriation of \$34,193,514 shall be from that amount of funds that  
28 exceeds the minimum fund balance of the Unreserved, Undesignated Fund Balance as  
29 determined by the Office of the Controller, and as shown in **Exhibit A-F**.

1 B. The Navajo Nation hereby approves supplemental funding from the Unreserved,  
2 Undesignated Fund Balance in the amount of \$34,193,514 for funds as indicated in the  
3 documents in **Exhibit A-F**.

4  
5 **SECTION SIX. DIRECTIVE TO THE OFFICE OF THE CONTROLLER AND**  
6 **THE OFFICE OF MANAGEMENT AND BUDGET**

7 In order to carry out the intent of the Navajo Nation Council in the approval of this  
8 legislation, expeditious implementation of this Resolution is of utmost importance. The  
9 Office of Management and Budget and the Office of the Controller are directed to take all  
10 steps necessary to give effect to this Resolution immediately after it becomes effective.

11  
12 **SECTION SEVEN. DIRECTIVE TO ENTERPRISES**

13 The Enterprises are directed to provide updated budget documents to the Office of  
14 Management and Budget, Office of Legislative Counsel, and to the Office of Legislative  
15 Services, consistent with the amendments made in this Resolution and the corrections noted  
16 by the Office of Management and Budget, for expeditious implementation of the  
17 amendments to this Resolution.

18  
19 **SECTION EIGHT. EFFECTIVE DATE**

20 The provisions of this Action shall become effective in accordance with 2 N.N.C. § 221(B).

21  
22 **SECTION NINE. SAVING CLAUSE**

23 Should any provision(s) of this Act be determined invalid by the Navajo Nation Supreme  
24 Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation  
25 Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.